2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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National report of Cuba on the implementation of article VI of the Treaty on the Non-Proliferation of Nuclear Weapons

I. Introduction and general considerations

1. On 4 November 2002, the Government of the Republic of Cuba deposited its instrument of accession to the Treaty on the Non-Proliferation of Nuclear Weapons with the Government of the Russian Federation, thereby becoming a State party to that Treaty.

2. Over the years, Cuba maintained reservations regarding the Treaty, which it considered to be a discriminatory international regime conducive to the existence of a "club of nuclear-weapon-States", and because these countries have failed, over all the years that have elapsed since 5 March 1970, the date on which the Treaty entered into force, to attain the ultimate objective of the total elimination of such weapons.

3. Cuba considers that this "privilege" should not be granted in perpetuity and that nuclear-weapons States are obliged, pursuant to the provisions of the Treaty and together with the other States parties, to it, to pursue negotiations on nuclear disarmament.

4. On becoming a State party to the Treaty Cuba's position of principle did not change. Our country has decided to work from within the Treaty in order to further what we regard to be our priority in the area of disarmament, namely, achieving the total elimination of nuclear weapons. For many, the Treaty is an end in itself. For Cuba, it is only one step on the path towards nuclear disarmament.

5. Cuba has always maintained that military doctrines based on the possession of nuclear weapons are untenable and unacceptable. No country or group of countries should be permitted to have a monopoly of these devastating weapons. Still less acceptable is the continued development — in terms both of quantity and quality — of weapons of this type by the exclusive club of nuclear Powers recognized by the Treaty. The only way of overcoming the built-in flaws of the NPT, and its selective and discriminatory nature, is by attaining the objective of the complete elimination of nuclear weapons, thereby guaranteeing the security of all countries on an equal footing.

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6. As a State party to the NPT, Cuba still continues to maintain that the isolated application of the principle of non-proliferation is insufficient to eliminate nuclear weapons. Only the application of a systematic approach, which would also include the components of disarmament, verification, assistance and cooperation, will be able to guarantee the total elimination of nuclear weapons. Cuba is prepared to launch immediate negotiations on a multilateral convention which applies this approach and believes that the Conference on Disarmament, as the sole multilateral negotiating forum in the area of disarmament, is the proper framework for such an undertaking.

7. The letter and the spirit of the Treaty are clear with regard to the achievement of the objective of nuclear disarmament. Article VI of the Treaty calls on the Contracting Parties to pursue "negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control". Unfortunately, this provision of the Treaty has not been respected. On repeated occasions and in various forums, Cuba has expressed its dissatisfaction with the lack of tangible progress in the implementation of that article, because it takes the view that the primary responsibility for compliance lies with nuclear-weapon States.

II. Specific considerations relating to article VI of the Treaty on the Non-Proliferation of Nuclear Weapons and to its national and global implementation

8. Cuba attaches particular importance to compliance with article VI of the Treaty. The outcome document of the seventh review Conference must contain practical commitments that clearly reflect the role and responsibility of the nuclear Powers in the disarmament process, which must be undertaken with full respect for the principles of transparency, verification and irreversibility.

A. Action and measures taken at the national level in order to implement article VI of the Treaty on the Non-Proliferation of Nuclear Weapons and other relevant provisions thereof

9. Although Cuba acceded to the Treaty in 2002, the Cuban Government has never intended and does not intend to develop or possess nuclear weapons. Our defence plans have never relied on the possession of nuclear weapons or of other weapons of mass destruction. Cuba has always called for their elimination and for general and complete disarmament under strict and effective international control.

10. Cuba's only interest in nuclear energy relates to the peaceful uses of such energy subject to verification by the International Atomic Energy Agency (IAEA), which Cuba recognizes as the authority responsible for verifying compliance with the Treaty.

11. All Cuba's programmes involving nuclear energy have strictly peaceful uses. They are subject to strict control by the competent national authorities and are monitored on a permanent basis by IAEA.

12. Even before it became a State party to the Treaty, Cuba had concluded partial safeguards agreements with IAEA in respect of its nuclear facilities. In October 1999, Cuba signed the Protocol Additional to its partial safeguards agreements, thereby becoming the first and only country with this type of agreement to take concrete action in support of the safeguards strengthening programme and, consequently, in support of the prestige of the IAEA verification mechanism.

13. In accordance with its commitments as a State party to the Treaty, Cuba concluded a comprehensive safeguards agreement with the Agency (INFCIRC/633) and a protocol additional to that agreement (INFCIRC/633/Add.1), which have been in force since 3 June 2004.

14. Cuba has an effective, predictable and reliable system for the national implementation of the international obligations incumbent upon it as a State party to the Treaty and as a member of IAEA. Cuba has a body of legislation and other procedures which govern all the activities of the various national bodies and institutions whose work relates, in one way or another, to the nuclear sphere. Current national legislation in this area ensures the strictly peaceful use of nuclear energy and associated equipment and technology. This legislation consists of the following laws, resolutions, regulations and other legal instruments:

(a) Decree-Law No. 207 of 14 February 2000 on the use of nuclear energy, which establishes the principle that nuclear energy should be used for peaceful purposes in order to further the country's economic and social development and in a manner that guarantees the fulfilment of the international commitments assumed by the State in the nuclear sphere. Non-peaceful uses, not only by non-State actors, but also by any person, legal or natural, who engages in activities such as the transport, use, removal, diversion, receipt, trafficking, stockpiling or transfer of nuclear material or any other acts involving that material without the proper authorization are thereby prohibited. Violations are punishable by imprisonment under article VII of the current Penal Code, Act No. 62.

The aforementioned Decree-Law laid the foundations for the establishment and current functioning of the State System of Accounting for and Control of Nuclear Material (SNCC), which gives proper consideration to the importance of safeguards and associated measures and controls.

(b) Decree No. 208 (24/5/96) on the State System of Accounting for and Control of Nuclear Material which sets forth the general provisions governing SNCC and applies to all organs of the central State administration, organs of the people's power and their offices and companies and any other State, private or mixed-capital entity that uses nuclear material. It also imposes an authorization requirement for the use, production, import, export or transfer of such material.

SNCC is responsible for granting licences and authorizations to work with nuclear material as well as for accounting for and controlling such material. It establishes an internal control mechanism for nuclear material and important components listed in resolution No. 62/96 of the Ministry of Science, Technology and the Environment (CITMA) and emphasizes, inter alia, the obligation of nuclear facilities to draw up manuals on internal accounting and control procedures, measurement, registration and reporting systems and containment and supervision measures consistent with the requirements of the Regulations.

The inspectors responsible for the implementation of SNCC are vested with maximum authority to order the immediate cessation of operations involving nuclear material when an unauthorized use or a violation of the accounting and control provisions is detected or when the management of the facility has failed to take the relevant corrective measures immediately. In addition, the legislation includes an appeal mechanism in the event of irregularities.

(c) Resolution No. 62/96 (12/7/96) establishing the Regulations for Accounting for and Control of Nuclear Material, which contains the rules governing SNCC.

(d) Resolutions No. 1/96 and 64/2000 of CITMA which establish the National Nuclear Safety Centre and entrust it with the practical implementation of SNCC, respectively.

15. In addition, Cuba has modern legislation in the area of terrorism which was endorsed by the national assembly of people's power on 24 December 2001 and which, inter alia, criminalizes trafficking in certain military equipment, material and dual-use technologies. Article 10 of Act No. 93, Against Acts of Terrorism, states: "Anyone who manufactures, facilitates, sells, transports, remits, introduces into the country or has in his power, in any form or place, arms, munitions or flammable, asphyxiating or toxic materials, substances or instruments, plastic or any other kind of explosives or chemical or biological agents or any other element from which products of the nature described or any other similar substance or explosive or deadly substance can be developed as a result of research, design or combination, shall be subject to ten to thirty years imprisonment, life imprisonment or death".

B. Action and measures taken by Cuba at the international level in order to implement article VI of the Treaty on the Non-Proliferation of Nuclear Weapons, including the "thirteen practical steps" adopted at the Sixth Review Conference: Cuba's considerations relating to the implementation of these measures at the global level

16. Although it was not a Party to the Treaty when the sixth Review Conference took place in 2000, Cuba welcomed the adoption of the "thirteen practical steps for the implementation of article VI". Five years on, Cuba deeply regrets the lack of tangible progress in implementing most of those steps. Indeed, a number of them have become impractical or, owing to the unilateral action of the United States, the principal nuclear power, serious doubts have arisen over their implementation.

17. Historically, Cuba has supported the establishment of an ad hoc committee on nuclear disarmament within the Conference on Disarmament. As a member of the Non-Aligned Movement, Cuba has called for the achievement of that objective and, in that connection, for the immediate commencement of negotiations on a phased programme for the total elimination of nuclear weapons within a specific time frame, including a convention on nuclear weapons. Cuba is prepared to undertake this exercise and is of the view that the inflexible position of some nuclear powers, particularly the United States, is continuing to prevent the Conference on Disarmament from establishing an ad hoc committee on nuclear disarmament.

18. Likewise, Cuba is in favour of beginning negotiations within the Conference on Disarmament on a non-discriminatory, multilateral and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other

nuclear explosive devices. Cuba is of the opinion that this treaty should represent a new step towards achieving the objective of the total elimination of nuclear weapons and, accordingly, that it must contain both non-proliferation and nuclear disarmament measures.

19. Cuba supports the establishment within the Conference on Disarmament of an ad hoc committee mandated with negotiating a treaty similar to that described in the preceding paragraph, in the context of the adoption of a programme of work for the Conference which accurately reflects the legitimate interests and priorities of all its member countries.

20. Year after year in the United Nations General Assembly, Cuba has supported many resolutions which, directly or indirectly, call for compliance with the objective of nuclear disarmament. During the fifty-ninth session of the General Assembly (2004), Cuba voted in favour of the following resolutions:

(a) Resolution 59/63 on the establishment of a nuclear-weapon-free zone in the region of the Middle East;

(b) Resolution 59/64 on the conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons;

(c) Resolution 59/66 on national legislation on transfer of arms, military equipment and dual-use goods and technology;

(d) Resolution 59/69 on the promotion of multilateralism in the area of disarmament and non-proliferation;

(e) Resolution 59/75 on accelerating the implementation of nuclear disarmament commitments;

(f) Resolution 59/77 on nuclear disarmament;

(g) Resolution 59/79 on reducing nuclear danger;

(h) Resolution 59/81 on the Conference on Disarmament decision (CD/1547) of 11 August 1998 to establish, under item 1 of its agenda entitled "Cessation of the nuclear arms race and nuclear disarmament", an ad hoc committee to negotiate, on the basis of the report of the Special Coordinator (CD/1299) and the mandate contained therein, a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices;

(i) Resolution 59/83 on the follow-up to the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*;

(j) Resolution 59/85 on a nuclear-weapon-free southern hemisphere and adjacent areas;

(k) Resolution 59/102 on the Convention on the Prohibition of the Use of Nuclear Weapons;

(l) Resolution 59/106 on the risk of nuclear proliferation in the Middle East;

(m) Resolution 59/109 on the Comprehensive Nuclear-Test-Ban Treaty.

21. Cuba deeply regrets the lack of real progress towards fulfilling the unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament. Indeed, since the 2000 Review Conference, there have been serious setbacks to the implementation of that commitment. The five nuclear powers recognized in the Treaty currently possess over 21,000 nuclear weapons in their arsenals. The United States alone possesses between 11,000 and 13,000 nuclear weapons, of which more than 7,000 are strategic and more than 3,000 non-strategic.

22. Cuba considers that the North American decision unilaterally to withdraw from the Treaty on the Limitation of Anti-Ballistic Missile Systems (ABM Treaty) in 2002 and begin preparations for the deployment of a new National Missile Defence system bodes ill for disarmament and arms control and is a regrettable setback to efforts to move towards nuclear disarmament. Until the United States withdrew from it, the ABM Treaty was considered an essential instrument for maintaining global strategic stability. When the Treaty was adopted in 1972, the United States had emphasized that the development of missile defence systems would trigger a defensive and offensive arms race and that there was an organic link between such weapons and global strategic stability.

23. The United States' withdrawal from the ABM Treaty has had an adverse impact on — and has indeed paralysed — processes relating to the START II and START III Treaties; that is yet another regrettable setback to efforts to reduce strategic nuclear weapons.

24. Cuba takes note of the commitments made by the Governments of the Russian Federation and the United States in 2002 to reduce non-strategic nuclear weapons and believes that those commitments should be formally set down in a legally binding instrument that establishes the irreversibility of the measures adopted and provides for verification thereof. It also believes that those commitments must not foster a general sense of complacency or divert attention away from our fundamental goal of nuclear disarmament.

25. Because of the threat that it poses to international peace and security, Cuba is extremely concerned about the development of new types of nuclear weapons and the existence of strategic defence doctrines that are underpinned even more than before by the possession and use of such weapons, such as the United States' Nuclear Posture Review and NATO's new strategic concept, both of which envisage new circumstances in which nuclear weapons can be used and extend the scope of the use, or threat of use, of force.

26. In late 2001, the Bush administration openly opposed the Comprehensive Nuclear-Test-Ban Treaty and even declared the United States' signing of the Treaty during President Clinton's mandate to be invalid thereby destroying any possibility of the Treaty entering into force in the next few years, as the United States is precisely one of the 44 States whose ratification is required for the Treaty to enter into force.

27. Cuba is firmly opposed to nuclear testing through explosions or any other means. Nuclear tests, as well as being contrary to the objective of nuclear disarmament and non-proliferation in all its aspects, are themselves a threat to international peace and security.

28. Accordingly, and in keeping with its principled positions on disarmament, Cuba actively participated in negotiations on the Comprehensive Nuclear-Test-Ban Treaty at the Conference on Disarmament, where it clearly stated what should be the letter and the spirit of the Treaty being negotiated. However, the end result did not respond to the interests and expectations of a group of countries, including Cuba, as the Treaty does not place the commitment to eliminate nuclear weapons within a specific time frame nor does it prohibit States from developing and improving nuclear weapons.

29. However, none of this changes Cuba's definitive position as regards the Treaty. For several consecutive years, Cuba has voted in favour of the resolution on the Treaty that has been submitted to the General Assembly's First Committee each year and adopted with the support of the vast majority of Member States; the only country that has voted against it has been the United States. Pending the entry into force of the Treaty, Cuba believes that all States must refrain from carrying out actions that are contrary to the objectives and aims of that Treaty.

30. Despite the uncertainty surrounding the future of this international instrument because of the opposition demonstrated by the main nuclear power, the relevant national authorities continue to give careful consideration to the possibility of Cuba's accession. Whatever the decision, it will be taken in the context of the pacifist and multilateral stance of the Cuban Government and people, and will be brought to the international community's attention at the appropriate time.

31. In 2002, Cuba not only acceded to the Treaty on the Non-Proliferation of Nuclear Weapons but also decided to ratify the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco), despite the fact that the only nuclear power in the Americas maintains towards Cuba a policy of hostility that does not exclude the use of force. This step constitutes an additional contribution towards strengthening and consolidating multilateralism and international treaties on weapons of mass destruction, and a redoubling of efforts in favour of nuclear disarmament. Cuba strongly supports the establishment of nuclear-weapon-free zones in various countries and regions of the world, on the basis of agreements freely negotiated between the States of the region concerned. Nuclear-weapon-free zones reinforce nuclear non-proliferation and contribute to achieving the objective of nuclear disarmament.

32. As for concerns that weapons of mass destruction, including nuclear weapons, could be used in terrorist acts, Cuba is firmly convinced that the most effective and sustainable way of preventing this happening is to achieve the total elimination of these weapons. Against this backdrop, the full, immediate and unconditional implementation of article VI of the Treaty is fundamental.

33. Cuba also considers that such concerns should be addressed within the framework of legally binding international instruments on disarmament and non-proliferation that already exist and in the relevant international organizations, in which the vast majority of countries participate. Cuba will therefore continue to cooperate and take concrete action in connection with these international treaties and bodies, particularly the Treaty on the Non-Proliferation of Nuclear Weapons and IAEA.

34. Imposing non-transparent mechanisms of selective composition that operate outside the United Nations and international treaties is definitely not the right way

to tackle the phenomenon of international terrorism, including that relating to the use of weapons of mass destruction, their means of delivery or related materials.

35. Cuba therefore considers that the Proliferation Security Initiative (PSI) erodes the international unity that should exist in the area of non-proliferation and counter-terrorism and, in practice, seeks to usurp the role of the United Nations and the international treaties and intergovernmental bodies that already exist in the area of disarmament and arms control. This Initiative violates — in its design and in the way in which it is implemented — the fundamental principles enshrined in the Charter of the United Nations and recognized in international law, such as non-interference in the internal affairs of States, sovereign equality between all States and the non-use or threat of use of force against the territorial integrity or political independence of any State. It also violates the basic provisions of a number of international treaties, such as, the United Nations Convention on the Law of the Sea.

36. Closely related to the issue of international cooperation to combat terrorism globally, Cuba attaches particular importance to its swift reaction to the call by the Secretary-General of the United Nations, in 2001, for Member States to accede to all existing conventions and protocols relating to terrorism. Cuba immediately deposited all the instruments of ratification required to that end, thereby demonstrating its strong political will to contribute to international efforts to combat this scourge by taking specific action.

III. Conclusions

37. Cuba fully complies with all the obligations and commitments undertaken in the international treaties to which it is a State party, including those in the area of disarmament, non-proliferation and arms control.

38. As regards the Treaty in particular, Cuba has demonstrated through concrete acts its political will strictly to comply with each and every one of its provisions, including those relating to article VI. Cuba is firmly convinced that achieving the objective of nuclear disarmament must continue to be the international community's top priority in the area of disarmament and arms control.

39. Cuba reiterates its willingness to work together with the other States parties to the Treaty, particularly those belonging to the Movement of Non-Aligned Countries, to achieve compliance with all the provisions of this legal instrument and thereby contribute to the international community's efforts in favour of peace, security and a world free from nuclear weapons and the enormous danger that their mere existence represents.

40. The seventh Review Conference provides a unique opportunity to reaffirm and extend the unequivocal undertaking by the nuclear-weapon States to eliminate all their nuclear arsenals in a transparent, irreversible and verifiable manner and for all States parties to the Treaty to set themselves new goals for achieving that objective.